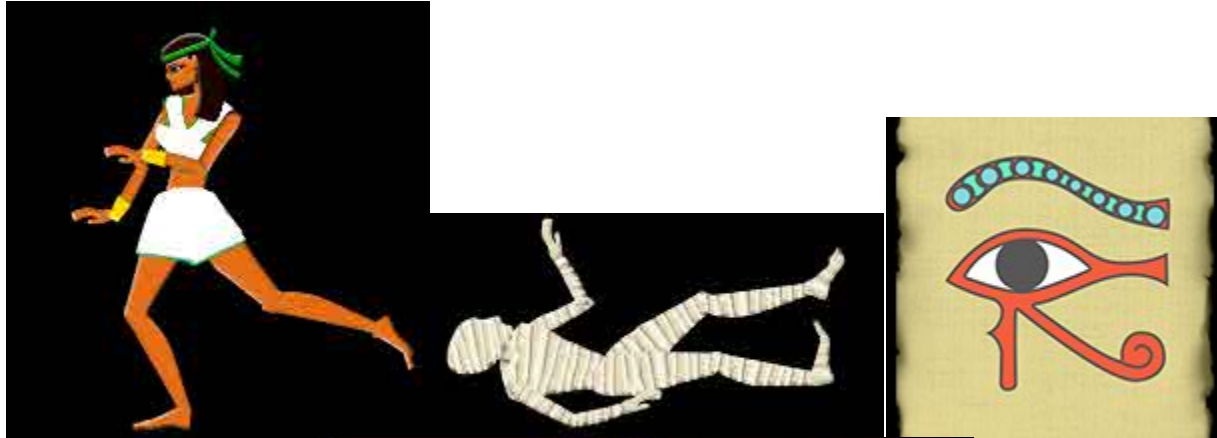


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**j. Coyote Moon on the DDC Web App**

The following is a selection of artwork that was downloaded by the Chrome browser to my computer by the DDC Web App when I played the Coyote Moon slot machine game for the first time:



A large collage of various slot machine game logos and titles. The games include: 100 Pandas, Season 13 Update!, American Idol, Gandy Bars, Cleopatra, Dungeons &amp; Dragons Crystal Caverns, Diamond Queen, Phantom Manor, Feast of Fools, Betty Whites Twisted Tales, The Brady Bunch, Candy Shop, Clue Classic Last Chance!, Coyote Moon, Davinci Diamonds, Double Diamond, Lounge Loot Slots, Lil' Lady, Candy Coast, Cat in the Hat, Cat &amp; Paws, Clue Classic Last Chance!, Croon Egypt, Day Dead, Gridiron Gold Slots, Lords &amp; Ladies, Cats, Classic Slots, Classic Slots II, Firehouse Bounds, Fire Opus, Flamin' Cherries, Grand Monarch, Horoscope Slots, Jewels of the Dragon, Jeopardy!, Jewel Arts, Lobstermania 2, European Vacation, Fairy Garden, Fire Opus, Firehouse Bounds, Flamin' Cherries, Grand Monarch, Horoscope Slots, Jewels of the Dragon, Jeopardy!, Jewel Arts, Lobstermania 2, Garden Party, Golden Goddess, Gone with the Wind, House of Cards, House of Cards, Dr. Bloom, Irish Shamrocks, Kitty Gitter, Kitty Gitter Platinum Edition, Goldie, Mardi Party, Masquerade of San Marco, Mayan Gold, Mighty Boon, Miner 99, Miss Red, Monopoly, Monopoly Plus Last Chance!, Nighty Nightmare, Noah's Ark, Orange &amp; Black, and Dream Life Last Chance!





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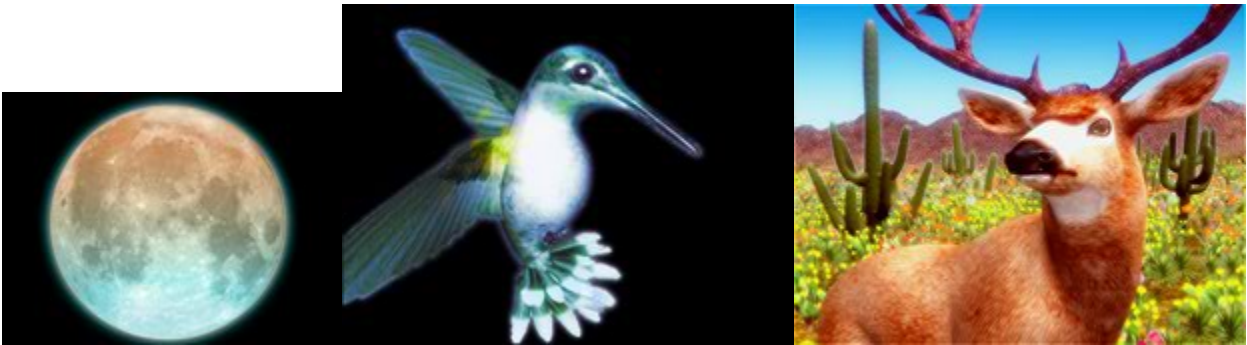
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**k. Kitty Glitter on the DDC Web App**

3

The following is a selection of artwork that was downloaded by the Chrome browser to my

4

computer by the DDC Web App when I played the Kitty Glitter slot machine game for the first time:



[illegible]



A collage of various slot machine game logos and titles, including Pamploña, Pharaoh's Fortune, Photo Booth, Pixies of the Forest, Red Mansions, Spirit of Christmas, Star Trek, Stinkin' Rich, Sumatran Storm, Sunken Treasure, Tasty Treats, Texas Tea, Treasures of the Pyramids, Wheel of Fortune, Wolf Run, Wonders of Africa, Mayan Riches, Black Widow, Triple Diamond, White Orchid, Wild Safari, Wild Wolf, Slippery Slopes, Three Kings, Water Dragons, Western Belles, and Transformers Battle in Cybertron.

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**6. Copyright and Trademark Ownership Information Displayed in  
DoubleDown Games with GC2 Content**

**a. Copyright Information Displayed in the DDC Web App**

I observed that a display of text stating information about copyright and trademark ownership is included in the files offered by the DDC Media Server. In the case of the DDC Web App, the copyright attribution information that is displayed to the player is contained within a game-specific SWF file which is loaded in a player's Web browser when that slot machine game launches. This SWF file is sent to the player's computer immediately before the rest of the game is transmitted, and its contents are displayed as the rest of the game is downloaded.

For example, for the Pharaoh's Fortune slot machine game on the DDC Web App, I observed that a file called SplashPageSkin.swf is downloaded from the DDC Media Server as the rest of the game is launching.<sup>104</sup> Figure 10 displays a screenshot of the Chrome Web browser as the game loads. Below the Pharaoh's Fortune logo, which is GC2 Copyrighted Material, is text which reads: "All trademarks are registered trademarks or pending trademarks of IGT and/or its licensors in the U.S. and/or other countries. © 2014 IGT. All rights reserved." This copyright notice precedes the display of the Pharaoh's Fortune game, which is GC2 Copyrighted Material. The aforementioned copyright notice is conveyed to the player in an SWF file that is a component of the approximately 25 SWF files that comprise the core of the game.

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<sup>104</sup> At the time of this writing, SplashPageSkin.swf is being offered online at [https://d-resource.doubledowncasino2.com/rgs/20171016/studios/saber/games/PharaohsFortune/assets/en/SplashPageSkin.swf?buildnumber=R410.D1.0.F.CL262924\\_600](https://d-resource.doubledowncasino2.com/rgs/20171016/studios/saber/games/PharaohsFortune/assets/en/SplashPageSkin.swf?buildnumber=R410.D1.0.F.CL262924_600)



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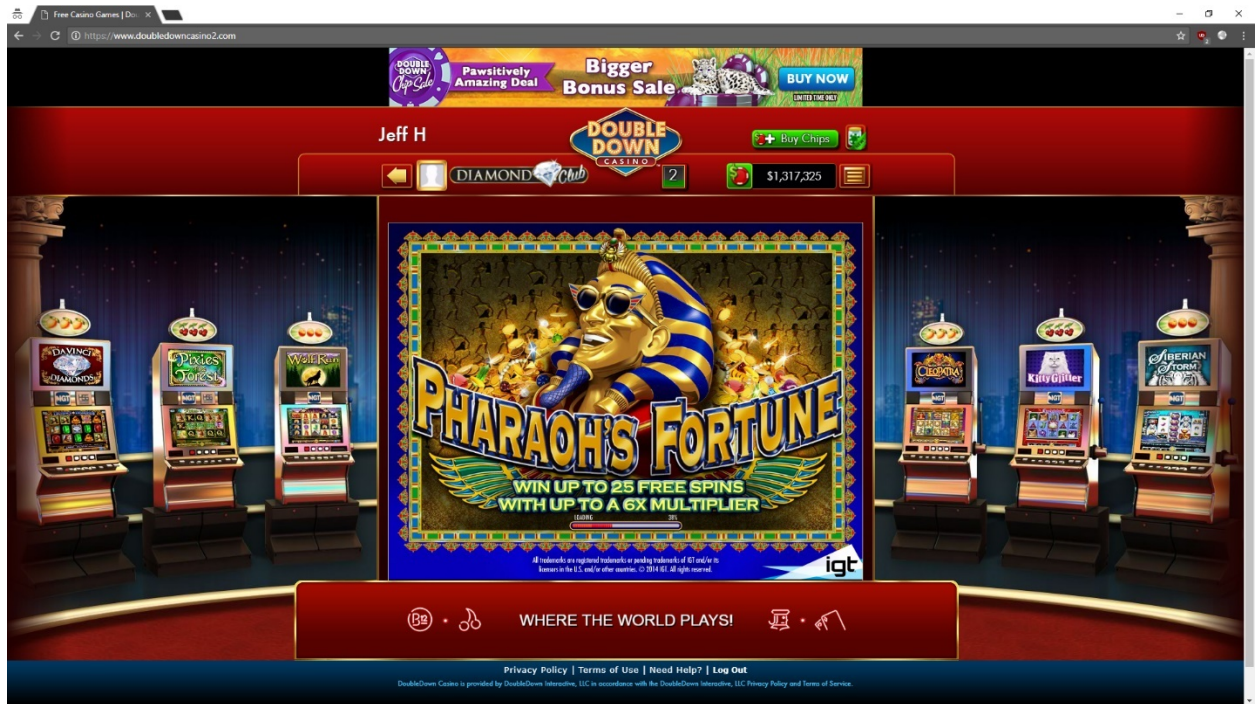
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Figure 10. Screenshot in the Chrome Web browser of the Pharaoh's Fortune game being loaded. Note the copyright and trademark notice, along with the IGT corporate logo, displayed underneath of the Pharaoh's Fortune game image and above the red box with the text "Where the World Plays!" A blowup of the copyright notice is also included.

An examination of SplashPageSkin.swf with the SWFRIP utility reveals that the base image for the loading screen depicted in Figure 10 is contained within this SWF file. The extracted image is included below as Figure 11. This image, when overlaid with other text and graphics within the SWF file, forms the loading page (often referred to as a "splash page") for the Pharaoh's

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1 Fortune game.<sup>105</sup> An examination of the SplashPageSkin.swf file with an inspection tool reveals  
2 that, at byte position 385,514, the text string “All trademarks are registered trademarks or pending  
3 trademarks of IGT and/or its licensors in the U.S. and/or other countries. © 2014 IGT. All rights  
4 reserved.” appears. This line is identical to the text displayed on the loading page. A screenshot of  
5 this section of the SWF file, open in the inspection tool, is featured in Figure 12, below.

6 Indeed, the copyright ownership information IGT chose to attach to these games is  
7 conveyed in the same SWF file as certain game images and graphics, and is transmitted in the  
8 wave of SWF files that contain the core of the game.

9 The DDC Web App’s manner of dissemination of copyright and trademark ownership  
10 information for Coyote Moon and Kitty Glitter is functionally identical to what I described above  
11 for Pharaoh’s Fortune, although the game imagery delivered with the copyright and trademark  
12 information is specific to each game. For completeness, screenshots of the Coyote Moon and  
13 Kitty Glitter loading screens are included as Figures 13 and 14, respectively.

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<sup>105</sup> [https://en.wikipedia.org/wiki/Splash\\_screen](https://en.wikipedia.org/wiki/Splash_screen)



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Figure 11: Image extracted from the Pharaoh's Fortune SplashPageSkin.swf file using SWFRIP. This image forms the basis for the loading page on the DDC Web App.

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SplashPageSkin.swf

| Offset (h) | 00 | 01 | 02 | 03 | 04 | 05 | 06 | 07 | 08 | 09 | 0A | 0B | 0C | 0D | 0E | 0F |                   |
|------------|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|-------------------|
| 0005E0F0   | 55 | 50 | 20 | 54 | 4F | 20 | 41 | 20 | 36 | 58 | 20 | 4D | 55 | 4C | 54 | 49 | UP TO A 6X MULTI  |
| 0005E100   | 50 | 4C | 49 | 45 | 52 | 0D | 00 | BF | 12 | 0C | 00 | 00 | 00 | 18 | 00 | 50 | PLIER...¿.....P   |
| 0005E110   | 00 | 00 | 00 | 00 | 00 | 00 | 00 | 00 | 00 | FF | 09 | 13 | 00 | 00 | 00 | 19 | .....ÿ.....       |
| 0005E120   | 00 | 01 | 00 | 89 | 06 | 06 | 01 | 00 | 18 | 00 | 12 | 21 | 78 | 00 | 40 | 00 | ...%......!x. @.  |
| 0005E130   | 00 | 00 | BF | 11 | 62 | 00 | 00 | 00 | 16 | 01 | 0A | 00 | 19 | 00 | 1E | 3F | ...¿.b.....?      |
| 0005E140   | C1 | 50 | E0 | 01 | 00 | 04 | 02 | 32 | 9A | 7B | FF | 00 | 00 | 07 | 00 | 00 | ÁPà....2š{ÿ.....  |
| 0005E150   | 00 | 07 | 00 | FD | 09 | 21 | 03 | FF | FF | FF | FF | 00 | 33 | 00 | FF | 00 | ...ý.!.ÿÿÿÿ.3.ÿ.  |
| 0005E160   | 00 | 02 | 00 | 00 | 00 | 02 | 00 | 0F | C9 | 00 | 00 | 00 | 00 | 05 | 00 | 91 | .....É.....`      |
| 0005E170   | 00 | A1 | 02 | 00 | 00 | 33 | FF | 00 | 00 | 05 | 00 | 00 | 00 | 05 | 00 | FD | .i....3ÿ.....ý    |
| 0005E180   | 09 | 21 | 00 | 00 | 00 | 00 | FF | 00 | 00 | 48 | 00 | 00 | 00 | 48 | 00 | 0F | .!....ÿ...H...H.. |
| 0005E190   | C9 | 00 | 00 | 00 | 00 | 05 | 00 | 3D | 01 | 21 | BF | 11 | 26 | 00 | 00 | 00 | É.....=.!¿.&...   |
| 0005E1A0   | 16 | 01 | 0C | 00 | 19 | 00 | 1E | 3F | C1 | 50 | E0 | 01 | 00 | 01 | 00 | 00 | .....?ÁPà.....    |
| 0005E1B0   | 00 | 00 | FF | 00 | 00 | 08 | 00 | 00 | 00 | 08 | 00 | 0F | C9 | 00 | 00 | 00 | ..ÿ.....É.....    |
| 0005E1C0   | 00 | 02 | 00 | AB | 00 | 21 | 7F | 09 | C1 | 00 | 00 | 00 | 1A | 00 | 76 | 71 | ...«.!.Á.....vq   |
| 0005E1D0   | 0B | DC | 7F | B0 | 1D | 88 | AD | 35 | 04 | 00 | 40 | 01 | FF | FF | FF | FF | .Ü.°.^.5...@.ÿÿÿÿ |
| 0005E1E0   | 02 | 00 | 00 | 00 | 00 | 00 | 00 | 00 | 00 | 00 | 41 | 6C | 6C | 20 | 74 | 72 | .....All tr       |
| 0005E1F0   | 61 | 64 | 65 | 6D | 61 | 72 | 6B | 73 | 20 | 61 | 72 | 65 | 20 | 72 | 65 | 67 | ademarks are reg  |
| 0005E200   | 69 | 73 | 74 | 65 | 72 | 65 | 64 | 20 | 74 | 72 | 61 | 64 | 65 | 6D | 61 | 72 | istered trademar  |
| 0005E210   | 6B | 73 | 20 | 6F | 72 | 20 | 70 | 65 | 6E | 64 | 69 | 6E | 67 | 20 | 74 | 72 | ks or pending tr  |
| 0005E220   | 61 | 64 | 65 | 6D | 61 | 72 | 6B | 73 | 20 | 6F | 66 | 20 | 49 | 47 | 54 | 20 | ademarks of IGT   |
| 0005E230   | 61 | 6E | 64 | 2F | 6F | 72 | 20 | 69 | 74 | 73 | 20 | 0D | 6C | 69 | 63 | 65 | and/or its .lice  |
| 0005E240   | 6E | 73 | 6F | 72 | 73 | 20 | 69 | 6E | 20 | 74 | 68 | 65 | 20 | 55 | 2E | 53 | nsors in the U.S  |
| 0005E250   | 2E | 20 | 61 | 6E | 64 | 2F | 6F | 72 | 20 | 6F | 74 | 68 | 65 | 72 | 20 | 63 | . and/or other c  |
| 0005E260   | 6F | 75 | 6E | 74 | 72 | 69 | 65 | 73 | 2E | 20 | C2 | A9 | 20 | 32 | 30 | 31 | ountries. Â© 201  |
| 0005E270   | 34 | 20 | 49 | 47 | 54 | 2E | 20 | 41 | 6C | 6C | 20 | 72 | 69 | 67 | 68 | 74 | 4 IGT. All right  |
| 0005E280   | 73 | 20 | 72 | 65 | 73 | 65 | 72 | 76 | 65 | 64 | 2E | 0D | 00 | BF | 11 | 1E | s reserved...¿..  |
| 0005E290   | 00 | 00 | 00 | 16 | 01 | 0E | 00 | 1A | 00 | 1E | 89 | 79 | BF | 10 | 01 | 00 | .....%ÿ¿...       |
| 0005E2A0   | 01 | 02 | 00 | 00 | 66 | FF | 00 | 00 | 1C | 00 | 00 | 00 | 1C | 00 | 7A | 02 | ....fÿ.....z.     |
| 0005E2B0   | 21 | 7F | 09 | 27 | 00 | 00 | 00 | 1B | 00 | 69 | 31 | 11 | 3F | FD | 80 | DD | !...'.....il.?ÿ€Ý |
| 0005E2C0   | 00 | AD | 35 | 04 | 00 | 18 | 01 | FF | FF | FF | FF | 00 | 00 | 00 | 00 | 00 | ..5....ÿÿÿÿ.....  |
| 0005E2D0   | 00 | 00 | 28 | 00 | 00 | 4C | 4F | 41 | 44 | 49 | 4E | 47 | 0D | 00 | BF | 11 | ..(..LOADING...¿. |

Figure 12: The HxD Binary Editor with SplashPageSkin.swf from the Pharaoh's Fortune game open. The highlighted section on the right shows the copyright notice, while the highlighted section in the middle shows the same data in a binary representation. The column on the left shows that we are 385,514 bytes into the file (approximately 376 KB. Note that 5E1EA in Base-16, which is being displayed, is equivalent to 385,514 in Base-10, which is the system humans use to characterize numbers).



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Figure 13: The Coyote Moon loading screen with copyright ownership information displayed.

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Figure 14: The Kitty Glitter loading screen with copyright ownership information displayed.

**b. Copyright Information Displayed in the DDC Android App and DDC iOS App**

While the DDC Android App is loading a particular slot machine game, a copyright notice is displayed under the game imagery. A sample screenshot of the Pharaoh's Fortune game loading on my Android Test Phone is included below as Figure 15. Note where, below the Pharaoh's head, the text "All trademarks are registered trademarks or pending trademarks of IGT in the U.S. and/or other countries. ©2017" is displayed. While the Pharaoh's Fortune game was being loaded on my Android Test Phone, my team and I observed a file titled "package\_ddislots\_en\_common\_gz.js" be downloaded from the DDC Media Server.<sup>106</sup> Based on my knowledge of software engineering,

<sup>106</sup> At time of this writing, this file is offered at [https://m-resource.doubledowncasino2.com/games/mobile/1.1.21/mobile/scripts/packages/ddislots/package\\_ddislots\\_en\\_common\\_gz.js](https://m-resource.doubledowncasino2.com/games/mobile/1.1.21/mobile/scripts/packages/ddislots/package_ddislots_en_common_gz.js)



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the name of this file indicated that it is a software “package”, or shared code, for “DDI Slots”, with components in the English language (“en”), containing the “common” phrases and code functions for DDI Slots, compressed for easy transmission using GZIP (“gz”),<sup>107</sup> and written in JavaScript (“js”). This copyright ownership information is conveyed to the player’s device in the wave of files that contain the core of the game.



Figure 15: The Pharaoh’s Fortune loading screen on the Test Android Phone. Note the text “All trademarks are registered trademarks or pending trademarks of IGT in the U.S. and/or other countries. © 2017” and the IGT logo in the lower right corner.

On lines 24-26 of this file, I observed a JavaScript function that would return the following language: “All trademarks are registered trademarks or pending trademarks of IGT in the U.S. and/or other countries. ©2017”. It is therefore apparent to me that the copyright ownership information for GC2’s Pharaoh’s Fortune is being transmitted in this file.

<sup>107</sup> <https://www.gnu.org/software/gzip/>

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1 The mechanisms for distribution and display of the copyright ownership information for  
 2 Coyote Moon and Kitty Glitter is identical -- the same file is used.

3 The mechanisms for distribution of the copyright notice within the DDC iOS App is  
 4 identical to that used in the DDC Android App; the mechanisms are identical.

5 **c. Terms of Use Notices**

6 The DDC Mobile Apps and DDC Web App both offer a link to the DDI's "Terms of Use."  
 7 This link points to a "Terms" page on doubledowninteractive.com.<sup>108</sup> The link is the same for the  
 8 DDC Web App and the DDC Mobile Apps. A PDF of this Web page is included as **Exhibit E**. In  
 9 the case of the DDC Web App, a link to this Terms page is presented in the footer of the website  
 10 as the website loads. In the case of the DDC Mobile Apps, a JavaScript file that contains the link  
 11 to these Terms is automatically downloaded by the app when it is opened for the first time. This  
 12 JavaScript file is downloaded within the same wave of downloads as the slot machine icons.

13 Before accessing DoubleDown Casino, users must agree to IGT's Terms of Use.<sup>109</sup> IGT's  
 14 Terms of Use for DoubleDown Casino assert that DoubleDown owns "all right, title and interest,  
 15 including copyrights" to all of the content in DoubleDown Casino.<sup>110</sup> The Terms of Use also claim  
 16 that DoubleDown "retain[s] all rights in the content, ... graphics, ... pictures, [and] video."<sup>111</sup> In  
 17 other words, DoubleDown states that it controls and has the rights to all of the content in  
 18 DoubleDown Casino. IGT's Terms of Use also requires its users to agree to defend and indemnify  
 19 it from all claims arising out of the use of DoubleDown Casino.<sup>112</sup>

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<sup>108</sup> <http://www.doubledowninteractive.com/terms/index.html>

<sup>109</sup> Complaint Exhibit 2

<sup>110</sup> Complaint Exhibit 2

<sup>111</sup> Complaint Exhibit 2

<sup>112</sup> Complaint Exhibit 2



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**7. Public Display/Public Performance**

Based on my review of the DDC Web App, the DDC Android App and the DDC iOS App, it would be easy for me to play any or all of Pharaoh's Fortune, Coyote Moon, and Kitty Glitter and receive GC2 images on my own device in a public venue, such as a Starbucks coffee shop.<sup>113</sup> Indeed, the premise of most mobile apps and mobile games is that they may be played nearly anywhere. I am not a lawyer, but it is my understanding that playing the game in such a public venue would fall within the definition of Public Display and Public Performance as defined in 17 USC §101.<sup>114</sup> The technology employed by DDI transmits the slot machine games at issue in this case to the public using the Internet, which I consider to be a "device or process." Multiple members of the public can play the games simultaneously, whether collocated in the same public venue, or spread out across the country. The ability to play the games is not contingent upon the time of day, nor is it a requirement that the games be played contemporaneously with other players. I further understand that GC2 retains exclusive rights to such a Public Display and Public Performance, and that IGT's continued dissemination of GC2 Copyrighted Material in the manner described in this report therefore infringes upon GC2's rights of Public Display and Public Performance, amongst others, based upon 17 USC §106.<sup>115</sup>

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<sup>113</sup> Sigrist Deposition, p. 41-42

<sup>114</sup> 17 USC §101 ("To "perform" a work means to recite, render, play, dance, or act it, either directly or by means of any device or process or, in the case of a motion picture or other audiovisual work, to show its images in any sequence or to make the sounds accompanying it audible.") ("To perform or display a work "publicly" means—

(1) to perform or display it at a place open to the public or at any place where a substantial number of persons outside of a normal circle of a family and its social acquaintances is gathered; or

(2) to transmit or otherwise communicate a performance or display of the work to a place specified by clause (1) or to the public, by means of any device or process, whether the members of the public capable of receiving the performance or display receive it in the same place or in separate places and at the same time or at different times.")

<sup>115</sup> 17 USC §106 (4) ("in the case of literary, musical, dramatic, and choreographic works, pantomimes, and motion pictures and other audiovisual works, to perform the copyrighted work publicly")

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**B. IGT Interactive****1. IGT Interactive Business Line, Internet Wagering, and Free Play**

IGT produces and distributes interactive gaming and makes it available to players through its agreements with casino operators.<sup>116</sup> IGT's interactive games allow users to play casino style games over the Internet on casino websites for real money or for fun.<sup>117</sup> When playing for fun, users have the option of purchasing additional virtual casino chips to continue playing, though players do not have the ability to win actual money.<sup>118</sup>

IGT's distribution relationships include Caesars Interactive, Golden Nugget and Borgata.<sup>119</sup> When working with its distributors, IGT integrates its games and back-end computer systems into the distributor's computer systems so that, from the players' perspective, IGT's games appear as if they are being offered directly by the distributor.<sup>120</sup> IGT's interactive gaming system allows its distributors to collect player, gaming and financial data and includes tools to analyze the data collected.<sup>121</sup> As long as the user is physically located in an area where online gambling is legal, the user can also access IGT's real money games on the distributor's website on any computer with an Internet connection, either at home or using mobile Internet.<sup>122</sup>

One of the "fundamental principles" of IGT's interactive game development was to identify successful Land-Based Games and then adapt them for use in the interactive segment of

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<sup>116</sup> Complaint Exhibit 22.

<sup>117</sup> Complaint Exhibit 22.

<sup>118</sup> Complaint Exhibit 22.

<sup>119</sup> <https://www.igt.com/products-and-services/interactive/solutions/real-money-gaming>.

<https://www.igt.com/products-and-services/interactive/platforms/igt-rgs>;

<https://interactive.igtgames.com/content/interactive/igaming/en/casino.html>

<sup>120</sup> <https://www.igt.com/products-and-services/interactive/solutions/real-money-gaming>

<sup>121</sup> <https://www.igt.com/products-and-services/interactive/solutions/real-money-gaming>

<sup>122</sup> Shorrock Deposition, p. 56.



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1 the market.<sup>123</sup> When adapting Land-Based Games into interactive games, IGT wanted the  
2 interactive games to use the same visuals as the original Land-Based Games.<sup>124</sup> IGT saw value in  
3 developing interactive games from popular Land-Based Games with known and appealing artwork  
4 and math models.<sup>125</sup> IGT knew that for users, the graphics were “an important element without  
5 question” and users can develop an attachment to the characters in video slot machines; therefore  
6 IGT wanted its interactive games to share visual continuity with the Land-Based Games they were  
7 modelled on.<sup>126</sup>

8 The interactive and mobile versions of the software do not contain the same final software  
9 product as the Land-Based Games. To accurately understand how the software in Land-Based  
10 Games is different from the software in an interactive game, it helps to understand the basics of  
11 the “client-server” model.<sup>127</sup> Although the name may sound intimidating, the client-server model  
12 is relatively simple: it describes one way that computers can share data over computer networks,  
13 such as the Internet, or the one that might be installed in an office. In the client-server computer  
14 model, the “client” refers to a computer that requests data from a “server” over a network. For  
15 example, if one were to use a personal computer or mobile phone to watch a video on YouTube,  
16 the computer/phone would act as a client and request the video from YouTube’s server.

17 Similar to how a user could play a video on YouTube through their computer’s Web  
18 browser by going to YouTube’s website, users can also play the interactive version of IGT’s games  
19 through their computer’s Web browser by going to the website of one of IGT’s distributors, such

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<sup>123</sup> Shorrock Deposition, p. 19-20, 72.

<sup>124</sup> Shorrock Deposition, p. 70.

<sup>125</sup> Shorrock Deposition, p. 62-66.

<sup>126</sup> Shorrock Deposition, p. 68-69, 71.

<sup>127</sup> [https://en.wikipedia.org/wiki/Client-server\\_model](https://en.wikipedia.org/wiki/Client-server_model)

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1 as Bet365, Gala Coral, Sky, or Caesar's Interactive Entertainment.<sup>128</sup> When a user is playing an  
2 interactive IGT game on the Internet, the user's computer is the client and requests data from IGT's  
3 server. When a user is playing an IGT game on a distributor's website, a portion of IGT's software  
4 is downloaded onto the user's computer.<sup>129</sup> This portion of the software is known as the client-  
5 side software.<sup>130</sup> The client-side software does not control the outcome of a game, it simply  
6 receives data from the server and displays that data in a visually appealing way. The client-side  
7 software does not include the payout tables or random number generator, which controls the  
8 outcomes of the user's bets; the payout tables and random number generator stays on IGT's or its  
9 affiliate's servers.<sup>131</sup>

10 When a player or prospective player visits the website of one of IGT's distributors, the  
11 player will arrive at a webpage known as an "operator lobby" which is maintained by the  
12 distributor.<sup>132</sup> In the operator lobby, the user finds a menu listing the games that are available to  
13 play.<sup>133</sup> Each game is represented by a small image, or icon, the user can click this image to launch  
14 the game.<sup>134</sup> The icons for IGT's games are generally a piece of art from the game and are delivered  
15 to the distributor by IGT's gaming service department.<sup>135</sup> GC2 Copyrighted Material is used by  
16 IGT within these operator lobbies for the games at issue in this case. When a player clicks on the  
17 icon for a game, the player's computer will download and launch the client-side components of  
18 IGT's game, which includes the artwork and graphics for the game.<sup>136</sup>

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<sup>128</sup> Kastner 30(b)(6) Deposition, p. 213, 247; Shorrock Deposition, p. 51-52.

<sup>129</sup> Shorrock Deposition, p. 54-55, 92;

<sup>130</sup> Shorrock Deposition, p. 53-54.

<sup>131</sup> Shorrock Deposition, p. 39-41, 53-54.

<sup>132</sup> Supplemental Response to Interrogatory No. 5

<sup>133</sup> Shorrock Deposition, p. 52.

<sup>134</sup> Shorrock Deposition, p. 52-53.

<sup>135</sup> Shorrock Deposition, p. 52.

<sup>136</sup> Shorrock Deposition, p. 53-54.



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1 Revenue from interactive gaming is generated from both social gaming and IGT's real-  
 2 money gambling products.<sup>137</sup> Social gaming revenues are received for the sale of virtual casino  
 3 chips which are purchased by the user.<sup>138</sup> IGT's real-money gambling products generate revenue  
 4 as part of the revenue sharing agreement IGT has with its partner casinos who distribute its  
 5 games.<sup>139</sup>

6 Additionally, IGT maintains a private website and private login section of www.IGT.com  
 7 for operators and licensees where IGT makes promotional material and videos available for  
 8 download.<sup>140</sup> This marketing material contains GC2's artwork and graphics and can be  
 9 downloaded by casino operators, such as Caesars Interactive, to assist them in marketing games  
 10 containing GC2's artwork and graphics.<sup>141</sup>

## 11 2. RGS Customers - IGT Agreements with Operators

12 As mentioned above, IGT has contracts that include revenue sharing provisions with the  
 13 operators that distribute IGT's games. Casino games are designed to ensure that, in the long run,  
 14 the house always wins, a statistical advantage often referred to as the "house advantage."<sup>142</sup> The  
 15 casino's gaming revenue is derived from this house advantage.<sup>143</sup> IGT's contracts with its licensees  
 16 stipulate the percentage of the casino's revenue after taxes and deductions that IGT receives; IGT  
 17 is essentially receiving royalties and is therefore provided with obvious incentives to keep players  
 18 engaged.<sup>144</sup>

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<sup>137</sup> Complaint Exhibit 22.

<sup>138</sup> Complaint Exhibit 22.

<sup>139</sup> Complaint Exhibit 22.

<sup>140</sup> Shorrock Deposition, p. 204-205, 209-210.

<sup>141</sup> Shorrock Deposition, p. 204-205, 209-210.

<sup>142</sup> [https://en.wikipedia.org/wiki/Casino\\_game#House\\_advantage](https://en.wikipedia.org/wiki/Casino_game#House_advantage)

<sup>143</sup> [https://en.wikipedia.org/wiki/Casino\\_game#House\\_advantage](https://en.wikipedia.org/wiki/Casino_game#House_advantage)

<sup>144</sup> Kastner 30(b)(6) Deposition, p. 95.

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1 In addition to describing the revenue sharing arrangement between IGT and the operators,  
2 IGTs agreements also describe each parties' technical operational requirements and  
3 responsibilities to support the gaming platform.<sup>145</sup> IGT shares access to its RGS game testing  
4 environment for development testing and assists the operator with integrating and customizing  
5 how IGT's games work on their webpage.<sup>146</sup> IGT provides the operator with an application  
6 protocol interface, or API, which enables the user to click on an IGT game icon on the operator's  
7 website and play that game from IGT's servers.<sup>147</sup> Without the provision of these IGT  
8 components, IGT's games, including Games which contain GC2 artwork and graphics, would not  
9 be correctly distributed to the users.<sup>148</sup> IGT also agrees with operators to provide and support the  
10 correct display of art assets for the game menu and game page displays.<sup>149</sup>

11 The operator has obligations to IGT as well. The operator must perform system integration  
12 planning and software development to ensure that IGT's games are available on the operator's  
13 website.<sup>150</sup>

14 Beyond software and computer network integration, IGT's agreements with operators also  
15 represent that IGT has rights to GC2 Copyrighted Material and agrees to indemnify the operator  
16 for intellectual property infringement.<sup>151</sup> IGT's agreement with an operator allows it to modify its  
17 games to avoid intellectual property infringement.<sup>152</sup>

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<sup>145</sup> Clelland Deposition Exhibit 70, 71, and 73.

<sup>146</sup> Kastner 30(b)(6) Deposition, p. 253-254.

<sup>147</sup> Kastner 30(b)(6) Deposition, p. 254-255.

<sup>148</sup> Kastner 30(b)(6) Deposition, p. 255.

<sup>149</sup> Kastner 30(b)(6) Deposition, p. 256-257.

<sup>150</sup> Kastner 30(b)(6) Deposition, p. 259.

<sup>151</sup> Kastner 30(b)(6) Deposition, p. 261.

<sup>152</sup> Kastner 30(b)(6) Deposition, p. 264.



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**3. Operators' Connections to the IGT Remote Game Server**

Although IGT offers its games through its operators' websites, the games themselves are not housed within the operator's internal IT infrastructure.<sup>153</sup> When a user visits the website of an IGT operator, the operator lobby webpage, where a user can select a game to play, is maintained by the operator and distributed by the operator's servers and IT infrastructure.<sup>154</sup> IGT's remote game servers (RGS) distribute IGT's games to the end users through the operator's webpages.<sup>155</sup> IGT's RGS is itself a product that IGT offers its operators.<sup>156</sup>

When a user visits the website of one of IGT's affiliates, they are presented with a series of icons for the various games available. Clicking on one of these icons causes the associated slot machine game to be loaded. This behavior is discussed in greater detail in section V.B.4.a, below. When a user plays a spin on an IGT slot machine game, the user's computer sends a signal to the random number generator on IGT's server via the Internet.<sup>157</sup> The random number generator determines the outcome of the user's spin and transmits that outcome to the user's computer.<sup>158</sup>

IGT's RGS integrates into the operator's platform and aides the management of digital patron wallets, responsible gaming functionality, fraud detection and prevention, customer relationship management, player accounting, and player analytics.<sup>159</sup> IGT maintains RGS servers

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<sup>153</sup> Supplemental Response to Interrogatory No. 5.

<sup>154</sup> Supplemental Response to Interrogatory No. 5.

<sup>155</sup> Shorrock Deposition, p. 92.

<sup>156</sup> Shorrock Deposition, p. 93.

<sup>157</sup> Supplemental Response to Interrogatory No. 5.

<sup>158</sup> Supplemental Response to Interrogatory No. 5.

<sup>159</sup> Complaint Exhibit 22.

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1 in New Jersey, Canada, Gibraltar and Alderney.<sup>160</sup> IGT's servers record the outcome of every spin  
 2 including the date, time, and amount wagered.<sup>161</sup>

3 In the United States, once a user selects an IGT game to play, the user's computer is  
 4 connected to an IGT RGS server located in IGT's New Jersey data center.<sup>162</sup> IGT's data center  
 5 contains numerous servers hosting various components of IGT's games.<sup>163</sup> One such component  
 6 is each game's "logic" or "math" which controls the outcome of each spin of the virtual slot  
 7 machine the user is playing.<sup>164</sup> The logic of an IGT game is influenced by a random number  
 8 generator and is regulated by the State of New Jersey.<sup>165</sup> The logic and math of the IGT games  
 9 remain on IGT's servers while the user is playing the game and are not downloaded to the user's  
 10 computer.<sup>166</sup>

#### 12 4. Users Connections to IGT Remote Game Servers

13 IGT makes their games available online for real-money play through several channels,  
 14 including via Caesars Casino ("**Caesars**"). The 2011 legalization of online gambling within New  
 15 Jersey<sup>167</sup> allowed for the expansion of Caesar's operations in Atlantic City and resulted in the  
 16 release of a Web and iOS app to allow players to play "anytime, anywhere, in New Jersey!"<sup>168</sup>

17 Caesars, via the caesarscasino.com website (the "**Caesars Web App**"), makes a variety of  
 18 casino games, including slots, roulette, and video poker, available to online players. The Caesars

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<sup>160</sup> Kastner 30(b)(6) Deposition, p. 11-12, 15-16, 20-21.

<sup>161</sup> Supplemental Response to Interrogatory No. 5.

<sup>162</sup> Supplemental Response to Interrogatory No. 5.

<sup>163</sup> Supplemental Response to Interrogatory No. 5.

<sup>164</sup> Supplemental Response to Interrogatory No. 5.; Shorrock Deposition, p. 40-41.

<sup>165</sup> Supplemental Response to Interrogatory No. 5.

<sup>166</sup> Shorrock Deposition, p. 39-41, 53-54.

<sup>167</sup> [https://en.wikipedia.org/wiki/Gambling\\_in\\_New\\_Jersey#Online\\_gambling](https://en.wikipedia.org/wiki/Gambling_in_New_Jersey#Online_gambling)

<sup>168</sup> <https://www.caesarscasino.com/>



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1 Web App can be accessed from locations outside of New Jersey, and allows “demo play,” which  
2 is not for money, without asking for a player’s location. My team and I played the demos for  
3 Pharaoh’s Fortune, Coyote Moon, and Kitty Glitter from our offices in Los Angeles.

4 In order to confirm that real-money play was consistent with our demo play, my team and  
5 I had a colleague who was a New Jersey resident access caesarscasino.com from a laptop while  
6 within New Jersey. This laptop had been previously configured with the Fiddler 4 tool. Our  
7 colleague signed up for real-money gaming and added \$100 from his personal bank account. At  
8 no point while this laptop was in New Jersey did myself or another non-New Jersey based  
9 technician interact with it.

10 The resulting network traffic capture from Fiddler 4 was transmitted back to Los Angeles,  
11 where my team analyzed it and confirmed that gameplay within New Jersey for real money is  
12 substantially identical to gameplay in a “demo mode” from Los Angeles.

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**a. The Caesars Casino Website**

| Attribute                                   | Open App<br>1 <sup>st</sup> Time   | Play Game<br>1 <sup>st</sup> Time   |
|---|--|---|
| TERMS OF USE                                | Link to Terms of Use presented at bottom of page.  | Link to Terms of Use presented at bottom of page.   |
| COMPUTER CODE CONVEYED                      | Flash files indicating what games are available, including animations and placement of game icons. | Computer code indicating where to place game graphics on the screen, how they should move, and how they should respond to the user. |
| IMAGES CONVEYED                             | Multiple Flash files each containing multiple images.  | Multiple Flash files each containing multiple images.   |
| ANY IMAGES DISPLAYED                        | Game icons displayed to player.  | Game, including game play graphics, displayed.  |
| COPYRIGHT OWNERSHIP INFORMATION DISTRIBUTED | Link to Terms of Use presented at bottom of page.  | Copyright ownership information presented as game loads, based on Flash files from server.  |
| POTENTIAL NUMBER OF DEVICES IMPACTED        | Unknown  | Unknown.  |

From a technical perspective, the Caesars Web App is conceptually similar to the DDC Web App. On the Caesars app, media assets, including SWF files that are substantially similar to the SWF files used by the DDC Web App, are delivered from a server at “platform.ac.rgsgames.com” (the “**Caesars Media Server**”). I am informed that this server is located within the State of New Jersey, in keeping with the rules promulgated by the New Jersey Gaming Commission.

Similarly, the Caesars Web App communicated with a control server at “nyxnj.games.cwgds.com” and exchanged game play information, such as game spins (the “**Caesars Gameplay Server**”). The communications I observed with the Caesars Gameplay server were structured within a computer-readable format known as XML, or Extensible Markup Language. However, the communications I saw with the Caesars Gameplay Server were generally

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1 similar in style and substance to the communications I saw with the DDC Gameplay server for the  
2 DDC Web App.

3 In the section on the DDC Web App, I discussed the SWF file for Pharaoh's Fortune named  
4 "SplashPageSkin.swf." This file contains the copyright notice information that is displayed as  
5 Pharaoh's Fortune loads. An equivalent file is served by the Caesars Media Server.<sup>169</sup> A  
6 comparison of this file and the one offered by the DDC Media Server showed that they were byte-  
7 for-byte identical. Furthermore, the Caesars Media Server offered a Cache Control header for this  
8 file specifying that it should be kept by the Web browser for 14 days.<sup>170</sup>

9 A collection of images contained within the SWF files that were downloaded when we  
10 played Pharaoh's Fortune, Coyote Moon, and Kitty Glitter on the Caesars Web App and that  
11 contain GC2 Copyrighted Material is provided below in Section V.B.5.a.

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<sup>169</sup> At time of this writing, this was

<https://platform.ac.rgsgames.com/studios/saber/games/PharaohsFortune/assets/en/SplashPageSkin.swf?revisionTag=73ee4f4f-cc51-46f3-842b-1a5abdfc1509>

<sup>170</sup> "Cache-Control: max-age=1209600, public, must-revalidate"; 1,209,600 seconds is equivalent to 14 days.



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**b. Caesars Casino for iOS**

| Attribute                                   | App Marketplace | App to Phone                 | Open App<br>1 <sup>st</sup> Time on Device  | Play Game<br>1 <sup>st</sup> Time on Device  | Open App<br>2 <sup>nd</sup> Time on Device | Play Game<br>2 <sup>nd</sup> Time on Device   |
|---|-----------------|------------------------------|---|--|--|---|
| TERMS OF USE                                | N/A             | N/A                          | Computer code with link to Terms of Use automatically downloaded by app.<br><br>Link to Terms of Use presented in menu. | N/A  | Link to Terms of Use presented in menu.    | Link to Terms of Use presented in menu.   |
| COMPUTER CODE CONVEYED                      | N/A             | iOS application package sent | N/A   | Computer code indicating how images should be assembled from sprite sheets, where they should be placed on the screen, how they should move, etc.  | N/A  | Computer code redownloaded if necessary.  |
| IMAGES CONVEYED                             | N/A             | N/A                          | Multiple sprite sheets each containing multiple images.   | Multiple sprite sheets each containing multiple images.  | Sprite sheets redownloaded if necessary.   | Sprite sheets redownloaded if necessary.  |
| ANY IMAGES DISPLAYED                        | N/A             | N/A                          | Game icons displayed to player.   | Game, including game play graphics, displayed.   | Game icons displayed to player.            | Game, including game play graphics, displayed.  |
| COPYRIGHT OWNERSHIP INFORMATION DISTRIBUTED | N/A             | N/A                          | Link to Terms of Use presented in menu.   | Server distributes computer code and graphics files with copyright information.<br><br>Copyright ownership information displayed while game loads. | Link to Terms of Use presented in menu.    | Computer code and graphics files with copyright information redownloaded if necessary.<br><br>Copyright ownership information displayed while game loads. |
| POTENTIAL NUMBER OF DEVICES IMPACTED        | N/A             | Unknown.                     | Unknown.  | Precise figure needed from IGT.  | Precise figure needed from IGT.            | Precise figure needed from IGT.   |

Similarly, Caesar's makes an app available for iOS called "Caesars Real Money Casino NJ" (the "**Caesars iOS App**").<sup>171</sup> Due to technical limitations, my team and I were unable to capture or play on this app from within New Jersey, but we were able to play and analyze it from Los Angeles. IGT's 30(b)(6) witness, Steve Kastner, stated that the artwork and graphics that are displayed on the end user's screen while playing Coyote Moon would be the same in New Jersey, Canada, Alderney, Gibraltar, or other player locations during game play within and without New Jersey.<sup>172</sup> The same artwork and graphics files that are served from the IGT central servers are served in the same manner out of NJ, Canada, Gibraltar, or Alderney. This is consistent with my observations for the Caesars Web App, from which my team and I were able to play non-wagering demonstrations in multiple locations.

<sup>171</sup> <https://itunes.apple.com/us/app/caesars-real-money-casino-nj/id876336616?mt=8>

<sup>172</sup> Kastner 30(b)(6) Deposition, p. 11-12, 15-16, 20-21.

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1 The Caesars iOS App communicated with the same Caesars Gameplay Server as used by  
2 the Caesars Web App. The general mechanics of this interaction appear to be the same for the  
3 Caesars Web App and the Caesars iOS App.

4 The Caesars iOS App downloads sprite sheets and gameplay logic from  
5 “m.ac.rgsgames.com” (the “**Caesars Mobile Media Server**”). This server, based on its IP address,  
6 is likely in the same building as the Caesars Media Server. These sprite sheets are slightly different  
7 in layout from the ones sent by the DDC Media Server, and some images are transmitted  
8 independently, but the general structure is conceptually the same as for the DDC iOS App.

9 **c. Caesars Casino for Android**

10 My team and I were not able to identify a Caesars real-money app available on the Google  
11 Play Store or on the Amazon Appstore. The Google Play store does not allow real-money gambling  
12 apps to be distributed on it within the United States.<sup>173</sup> This has likely caused Caesars to not  
13 develop such an app.

14 **5. Artwork Assets Transferred Playing the Games**

15 **Exhibit G** contains the full set of images that were transferred when the Caesars apps were  
16 played. The Exhibit contains a total of 2,174 images. Included below in Subsections a-c are  
17 selected images from Exhibit G that were downloaded from the Caesars Media Server.

---

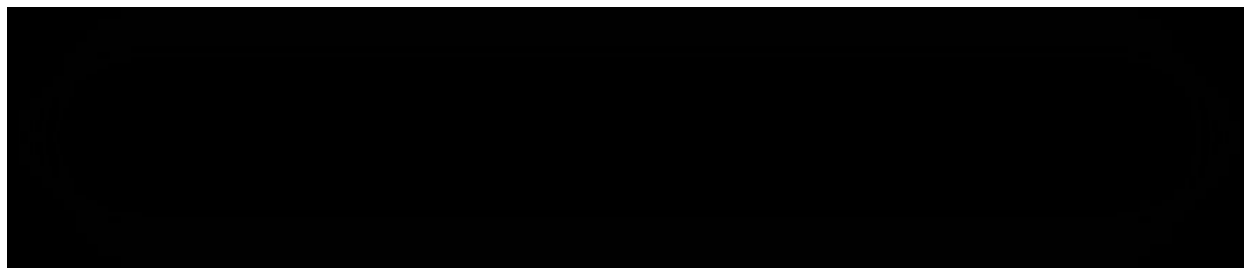
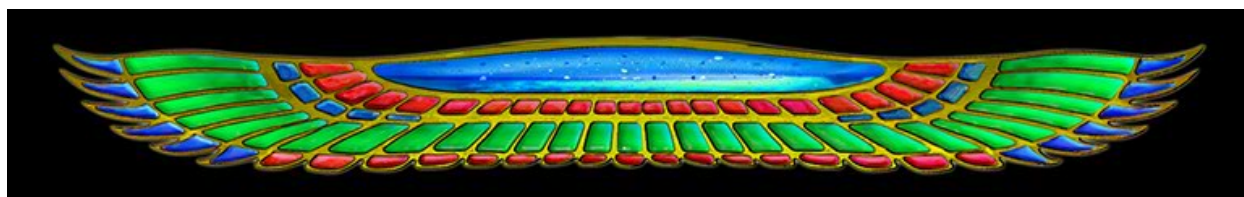
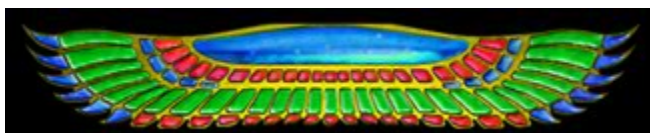
<sup>173</sup> <https://play.google.com/about/restricted-content/gambling/>

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**a. Caesars Casino Web**

The following is a selection of images that were downloaded by the Chrome browser to my team's computer in New Jersey by the Caesars Web App when my colleague played the Pharaoh's Fortune, Coyote Moon and Kitty Glitter slot machine games for the first time:





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1



2

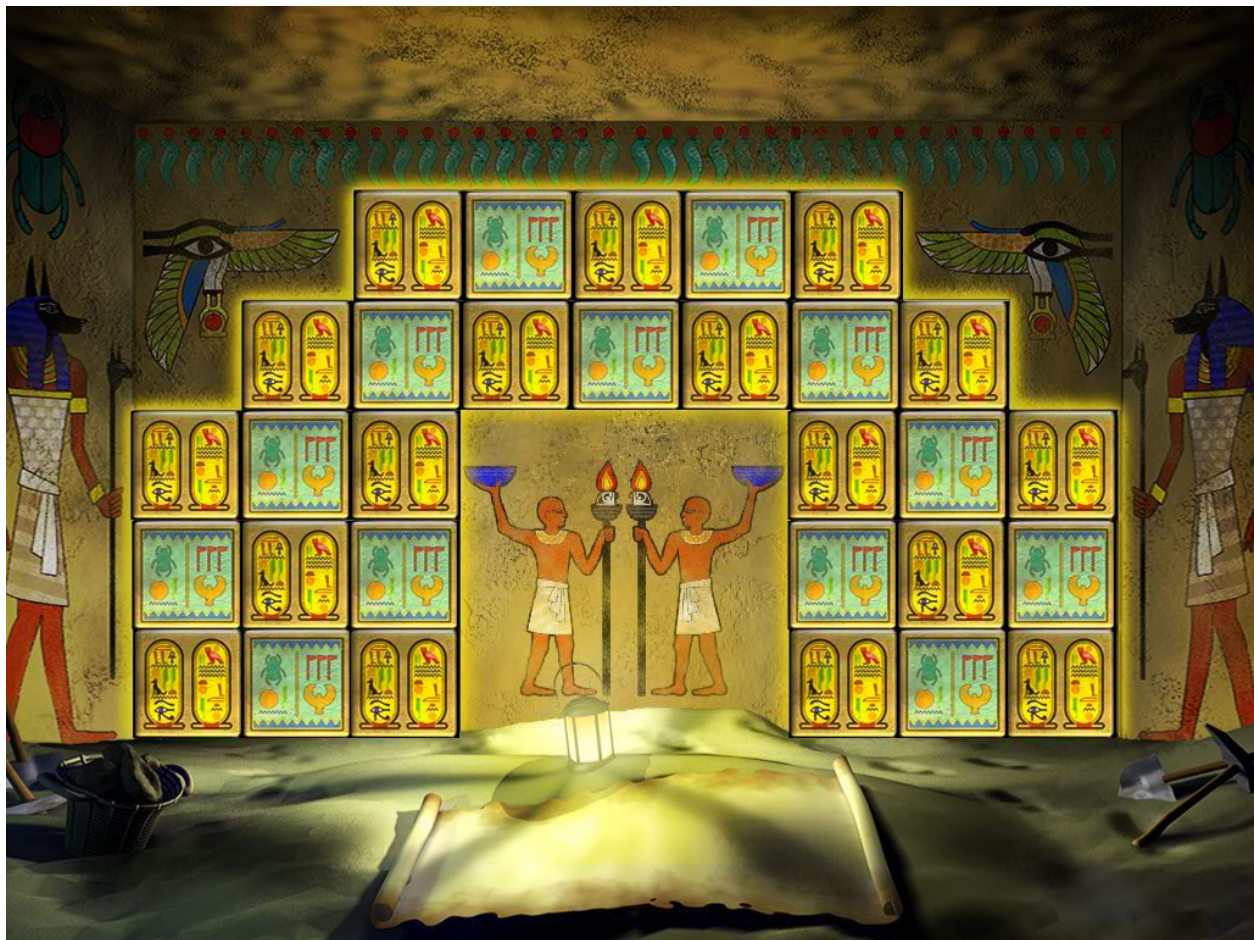


3



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1



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A close-up photograph of a brick wall. The bricks are light-colored, possibly yellow or tan, with dark mortar joints. The wall is composed of several courses of bricks. At the top of the image, there is a decorative metal railing with a repeating pattern of small, dark, pointed elements. The lighting is somewhat uneven, with the center of the wall appearing brighter than the edges.

|   |   |   |  |   |
|---|---|---|--|---|
|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |

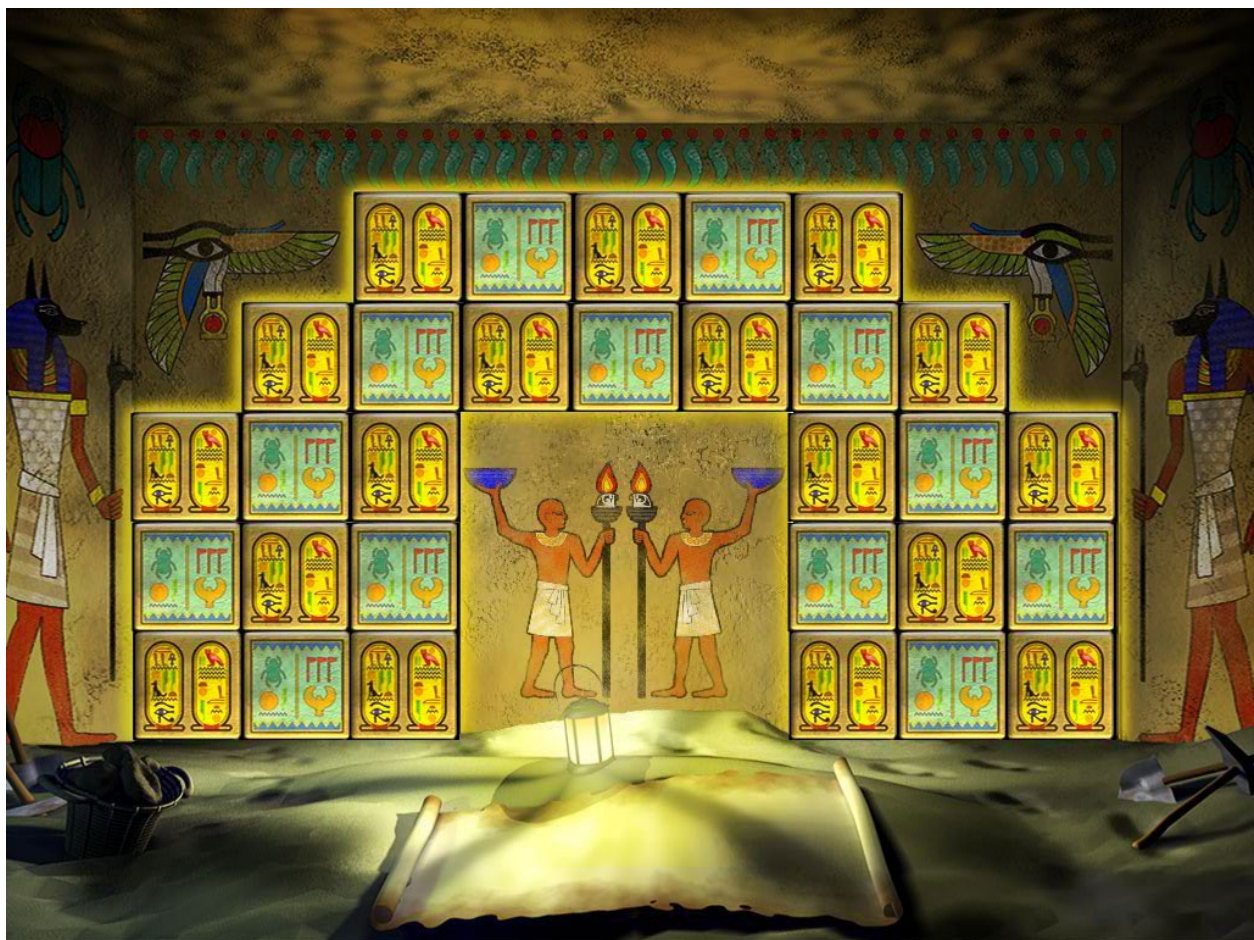
**129 | Page**  
**Case No. 16-cv-8794**

EXPERT REPORT OF ERIK LAYKIN



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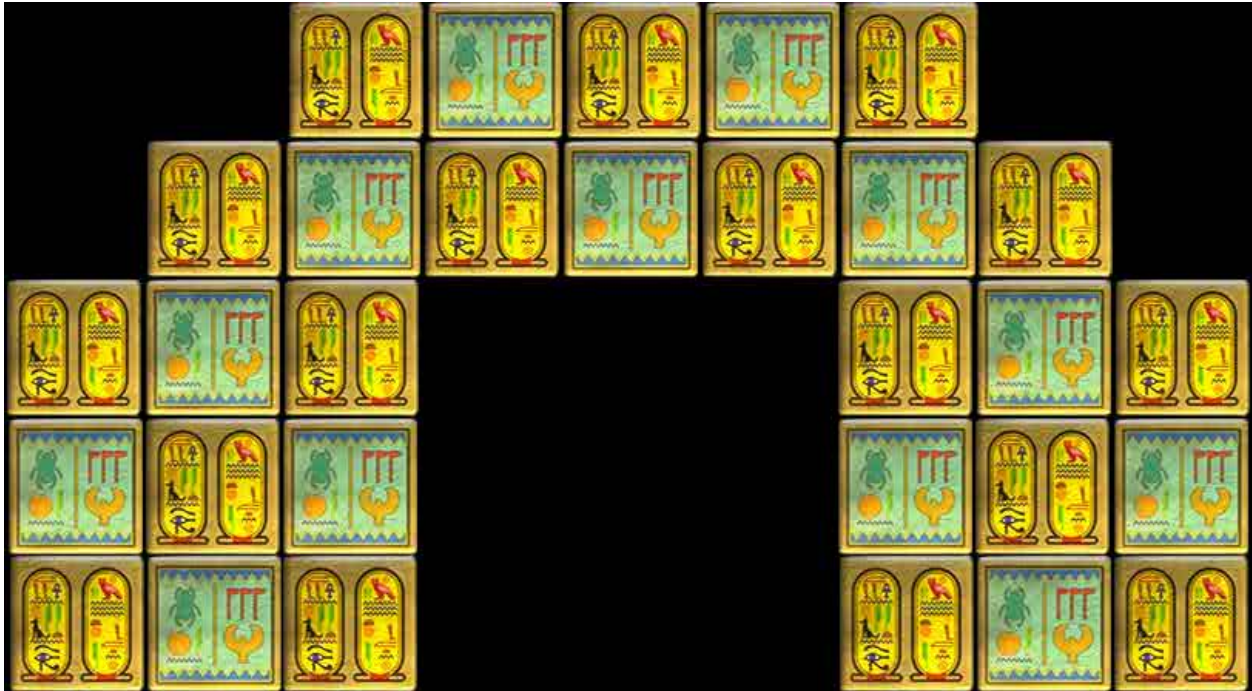
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2



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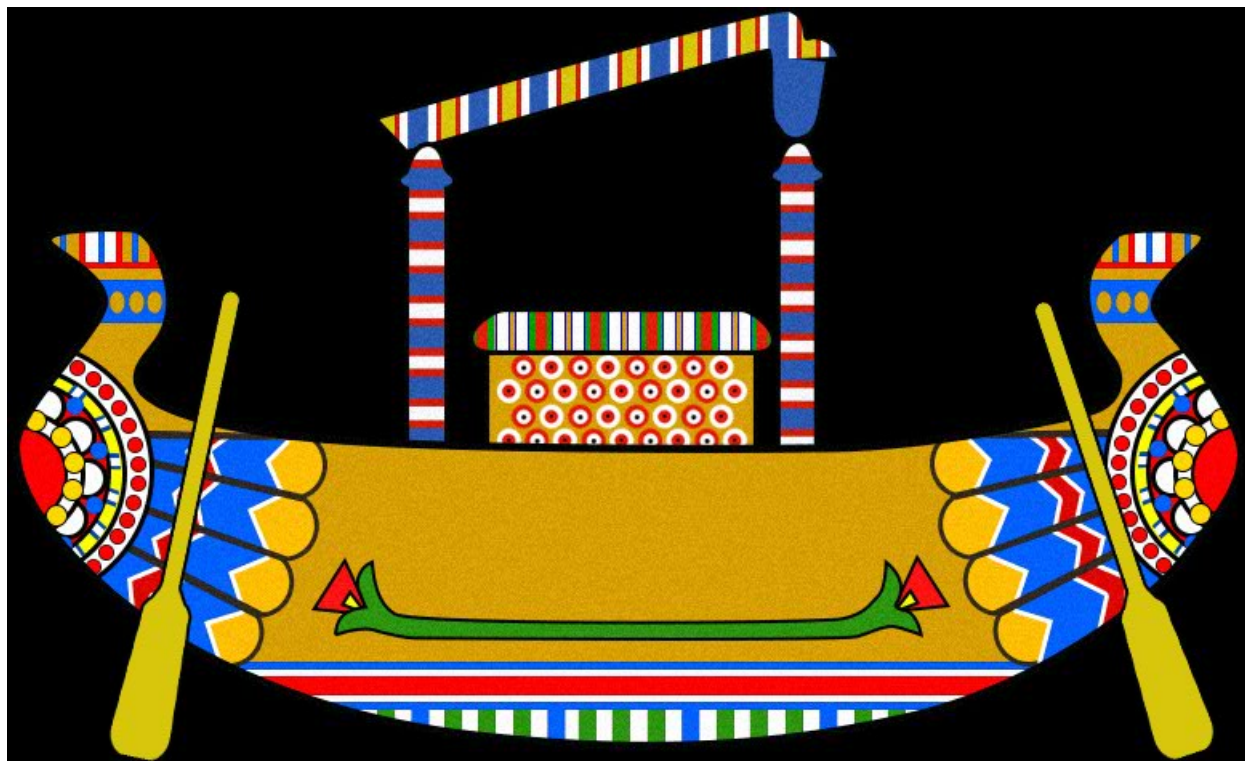
1



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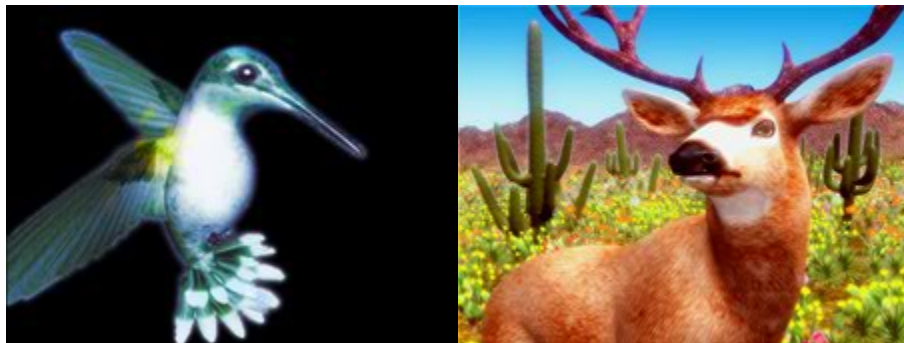
3



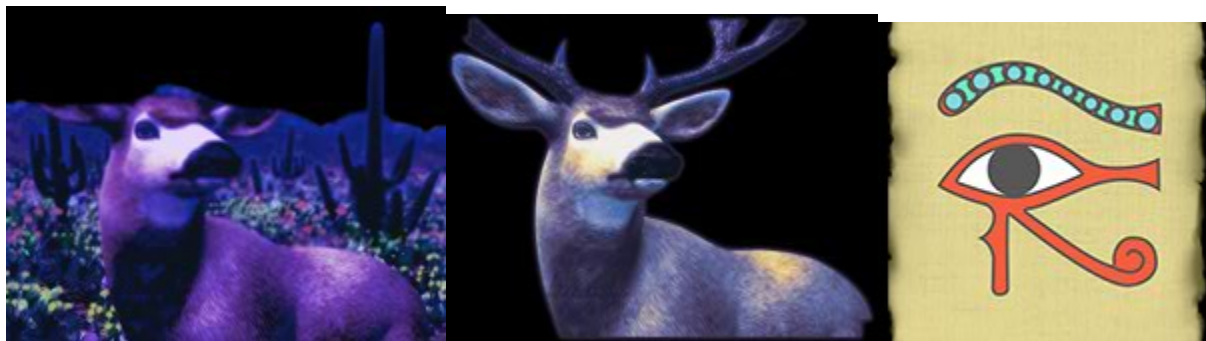
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**SCATTER**

1



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3

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4

**b. Caesars Casino iOS – Pharaoh's Fortune**

5

The following is a selection of artwork that was downloaded to my Test iPhone by the Caesars

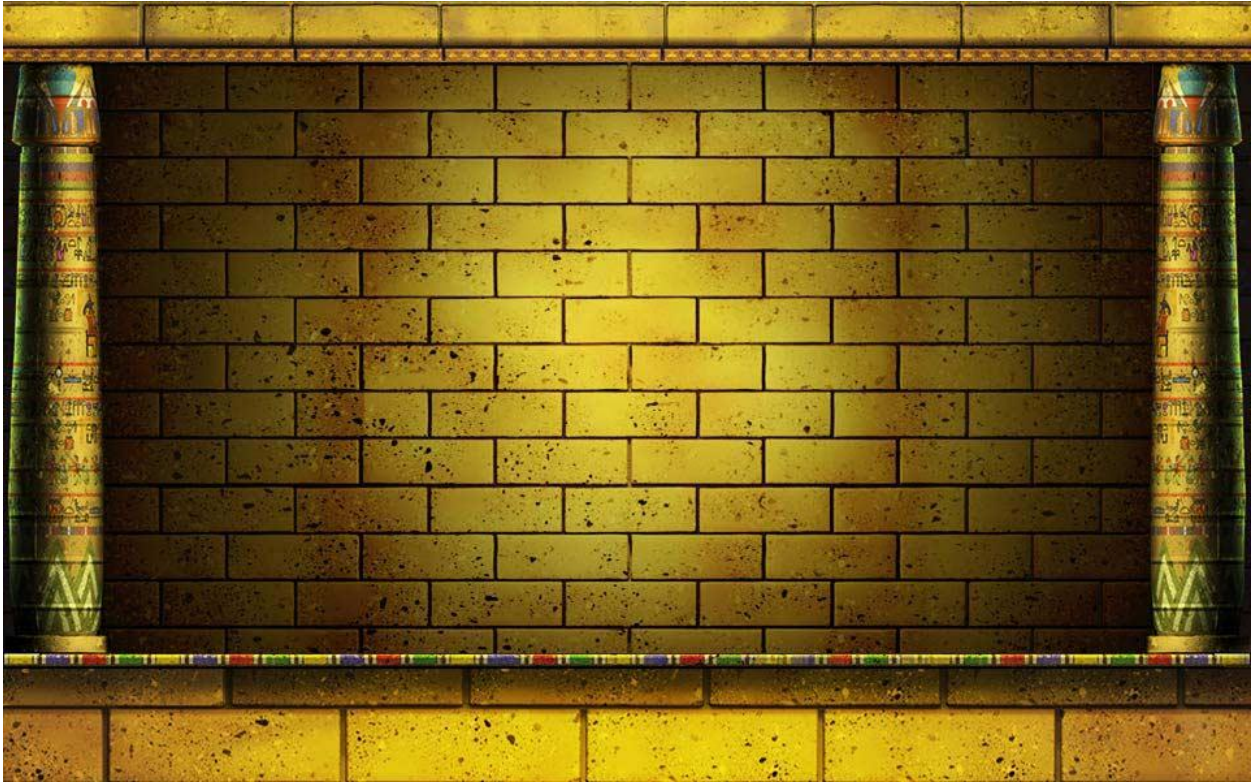
6

iOS App when I played the Pharaoh's Fortune slot machine game for the first time:

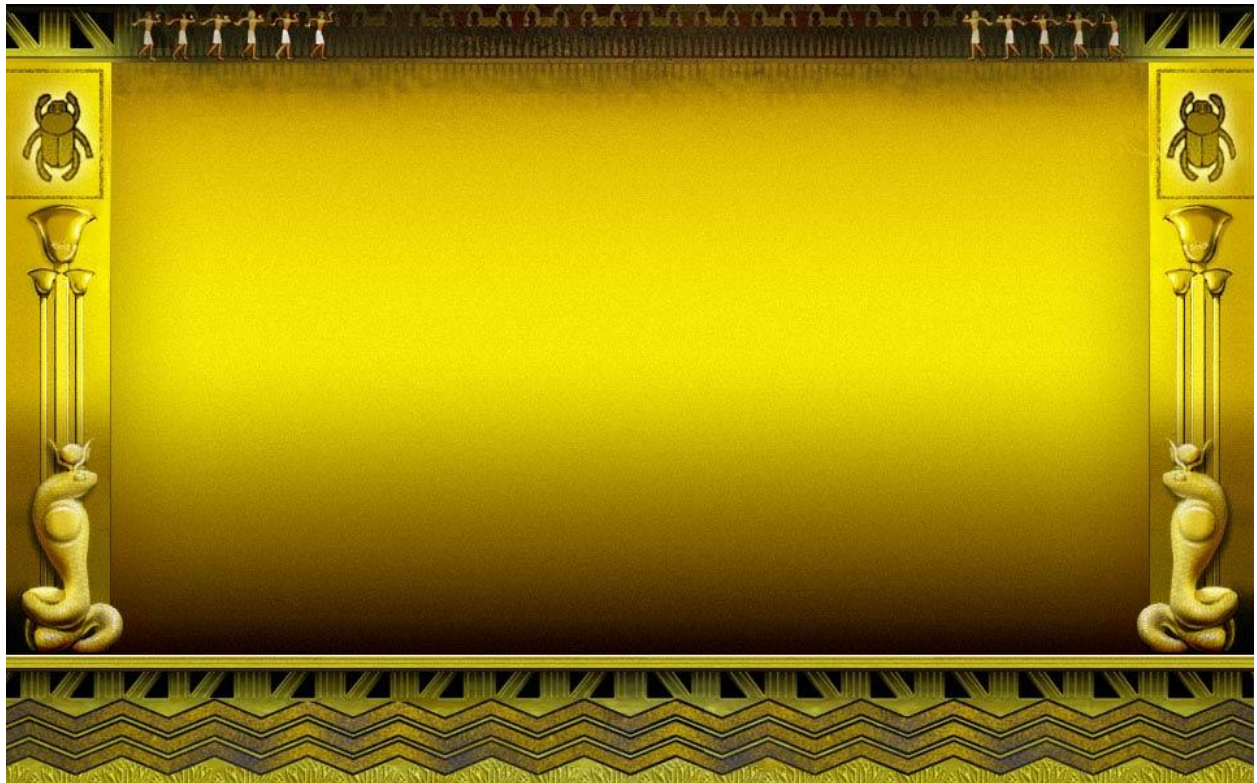


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2



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1



2

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2



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2



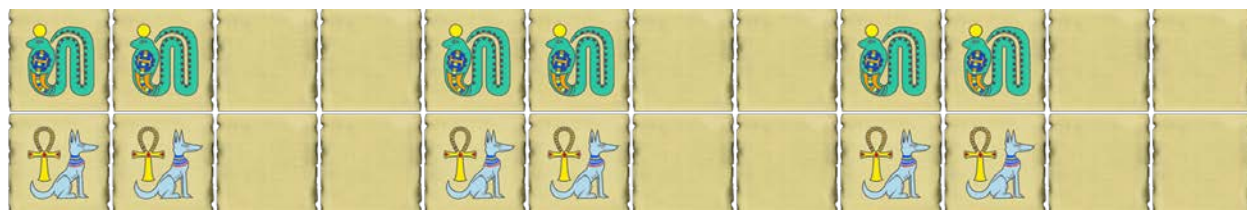
3



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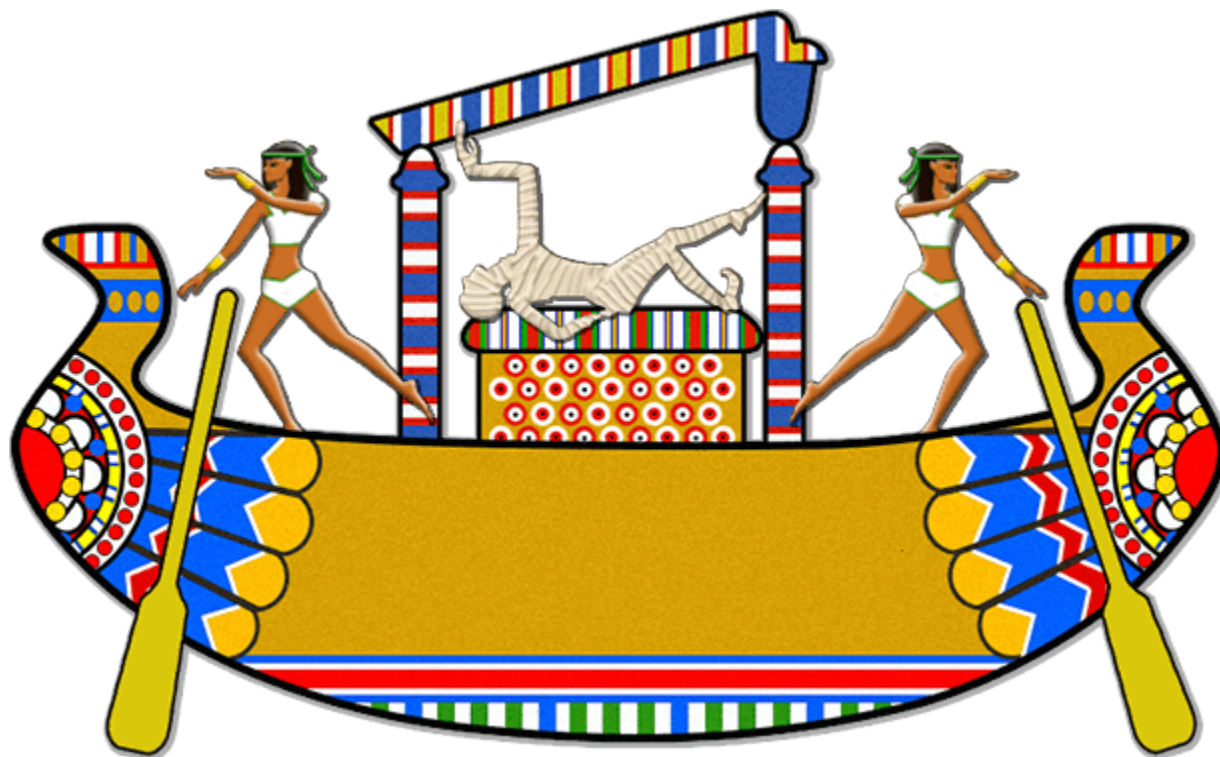
5



6

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3



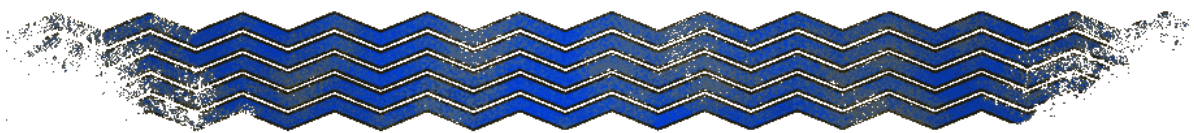
4



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c. Caesars Casino iOS – Kitty Glitter

The following is a selection of artwork that was downloaded to my Test iPhone by the Caesars iOS App when I played the Kitty Glitter slot machine game for the first time:





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1



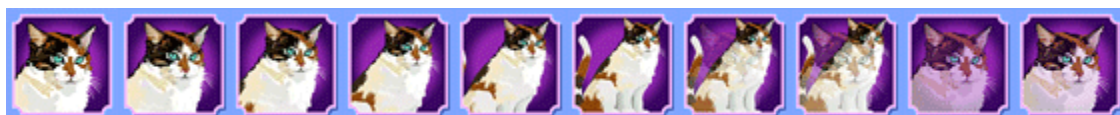
2



3



4



5



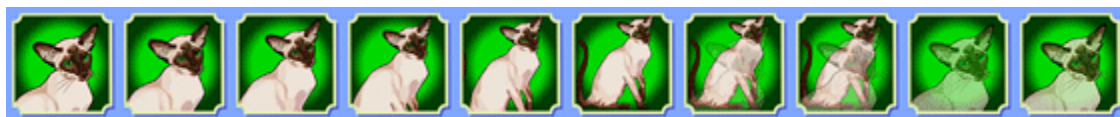
6



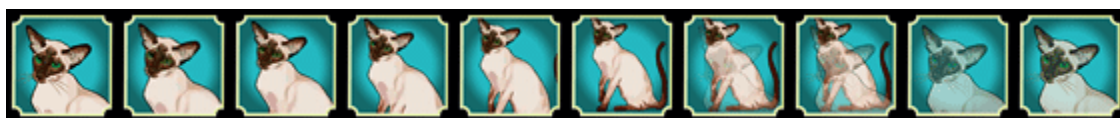
7



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9



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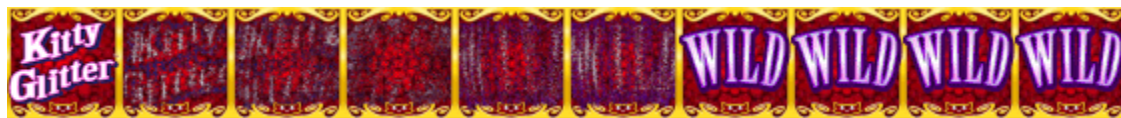
2



3

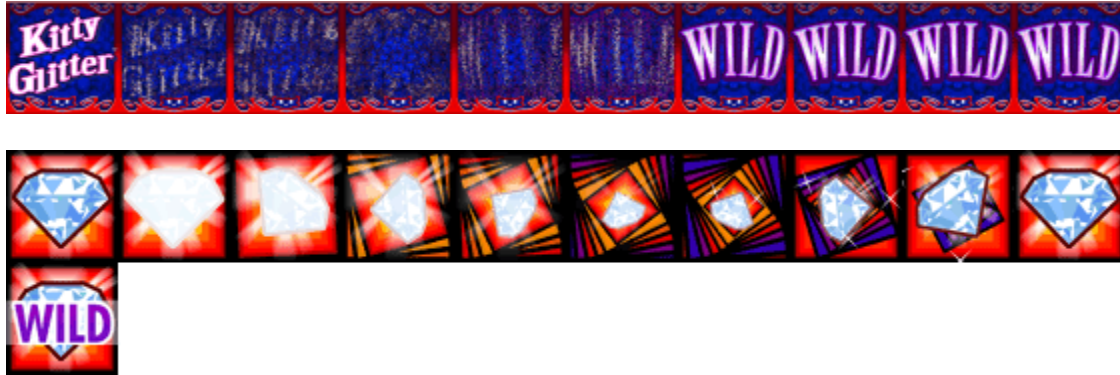


4



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## 6. Copyright Management Ownership Information Displayed in IGT Interactive/RGS Games with GC2 Content

As with the DDC Web App, I observed that during a gameplay on Caesars Web App and the Caesar's iOS App the display of text stating information about copyright and trademark ownership is included in the files offered by the Caesar's Media Server. Just like the DDC Web App, the copyright attribution information that is displayed on the Caesar's Web App is contained within a game-specific SWF file which is loaded in a player's Web browser when that slot machine game launches. For the Pharaoh's Fortune slot machine game on the Caesar's Web App, I observed that a file called SplashPageSkin.swf is downloaded from the Caesar's Media Server as the rest of the game is launching.<sup>174</sup> Figure 16 displays a screenshot of the Chrome Web browser as the game loads. Below the Pharaoh's Fortune logo, which is GC2 Copyrighted Material, is text which reads: "All trademarks are registered trademarks or pending trademarks of IGT and/or its licensors in the U.S. and/or other countries. © 2014 IGT. All rights reserved." This copyright notice precedes the display of the Pharaoh's Fortune game, including other graphics and images

<sup>174</sup> At the time of this writing, SplashPageSkin.swf is being offered online at [https://d-resource.doubledowncasino2.com/rgs/20171016/studios/saber/games/PharaohsFortune/assets/en/SplashPageSkin.swf?buildnumber=R410.D1.0.F.CL262924\\_600](https://d-resource.doubledowncasino2.com/rgs/20171016/studios/saber/games/PharaohsFortune/assets/en/SplashPageSkin.swf?buildnumber=R410.D1.0.F.CL262924_600)



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- 1 that are GC2 Copyrighted Material. It is my understanding that GC2 has not licensed this artwork
- 2 to IGT for the purposes of online interactive or mobile games.

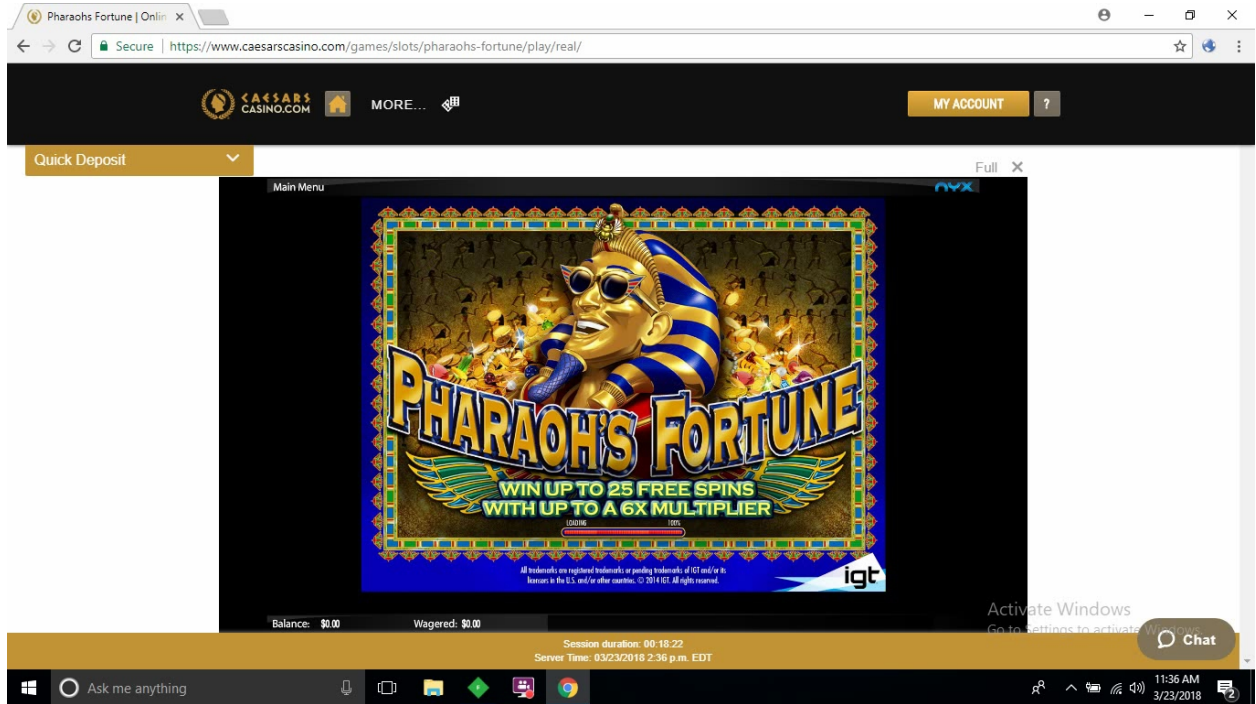


Figure 16: Screenshot in the Chrome Web browser of the Pharaoh's Fortune game being loaded on a laptop. A blowup of the copyright notice is also included.

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1 The Caesars iOS App loads a file from the Caesars Mobile Media Server titled  
 2 “strings.json”.<sup>175</sup> This file contains the following line: “All trademarks are registered trademarks  
 3 or pending trademarks of IGT in the U.S. and/or other countries. © 2014 IGT. All rights reserved.”

4 As with the DDC apps, this copyright ownership information is conveyed to the player’s  
 5 device in the wave of files that contain the core of the game.

## 6 **7. Public Display/Public Performance**

7 Based on my review of the Caesars Web App and the Caesars Mobile App, it would be  
 8 easy for me to play any or all of Pharaoh’s Fortune, Coyote Moon, and Kitty Glitter and receive  
 9 GC2 images on my own device in a public venue, such as a Starbucks coffee shop. Indeed, the  
 10 promise of Caesars Casino is that the player can play “anytime, anywhere,”<sup>176</sup> and IGT also touts  
 11 its mobile capabilities with respect to interactive gaming.<sup>177</sup> I am not a lawyer, but it is my  
 12 understanding that playing the game in such a public venue would fall within the definition of  
 13 Public Display and Public Performance as defined in 17 USC §101.<sup>178</sup> The technology employed  
 14 by IGT and its affiliates transmits the slot machine games at issue in this case to the public using  
 15 the Internet, which I consider to be a “device or process.” Multiple members of the public can play

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<sup>175</sup> At the time of this writing, this was available at  
<https://m.ac.rgsgames.com/games/assets/strings.json?countrycode=CA&channel=MOB&language=en&currencycode=FPY&softwareid=200-1236-003&presenttype=STD&tag=0585d477211c6374b70ae1b02cc0fe07>

<sup>176</sup> <https://www.caesarscasino.com/>

<sup>177</sup> Clelland deposition Exhibit 76, p. 49

<sup>178</sup> 17 USC §101 (“To “perform” a work means to recite, render, play, dance, or act it, either directly or by means of any device or process or, in the case of a motion picture or other audiovisual work, to show its images in any sequence or to make the sounds accompanying it audible.”) (“To perform or display a work “publicly” means—

(1) to perform or display it at a place open to the public or at any place where a substantial number of persons outside of a normal circle of a family and its social acquaintances is gathered; or

(2) to transmit or otherwise communicate a performance or display of the work to a place specified by clause (1) or to the public, by means of any device or process, whether the members of the public capable of receiving the performance or display receive it in the same place or in separate places and at the same time or at different times.”)

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1 the games simultaneously, whether collocated in the same public venue, or spread out across the  
 2 country. The ability to play the games is not contingent upon the time of day, nor is it a requirement  
 3 that the games be played contemporaneously with other players. I further understand that it is  
 4 GC2's contention that it retains exclusive rights to such a Public Display and Public Performance,  
 5 and that as such IGT's continued dissemination of GC2 Copyrighted Material therefore infringes  
 6 upon GC2's rights of Public Display and Public Performance, amongst others, based upon 17 USC  
 7 §106.<sup>179</sup>

### 8 C. Masque and Encore CD-ROMs for PC/Mac and Website Download

#### 9 1. IGT's Relationship with Masque

10 IGT's business relationship with Masque - a developer and publisher of non-wagering  
 11 casino style computer games for Macintosh and Windows operating systems - has spanned  
 12 decades.<sup>180</sup> Masque distributes its games not only through brick and mortar retail stores and its  
 13 own website, but also through online retailers such as Amazon.com.<sup>181</sup> Masque's games are  
 14 offered to its customers via both digital download and physical discs, traditionally referred to as  
 15 CD-ROMs.<sup>182</sup> Some of the games that Masque sold contained GC2 Copyrighted Material. These  
 16 images were present within the games themselves as well as on the packaging for the physical  
 17 disks.<sup>183</sup>

<sup>179</sup> 17 USC §106 (4) ("in the case of literary, musical, dramatic, and choreographic works, pantomimes, and motion pictures and other audiovisual works, to perform the copyrighted work publicly")

<sup>180</sup> [https://www.masque.com/about\\_us](https://www.masque.com/about_us); 1999 Trademark and Copyright License Agreement; 2010 Restated Trademark and Copyright License.

<sup>181</sup><sup>181</sup> [https://www.masque.com/about\\_us](https://www.masque.com/about_us);

[https://www.amazon.com/Masque-Publishing/b/ref=bl\\_dp\\_s\\_web\\_3445232011?ie=UTF8&node=3445232011&field-lbr\\_brands\\_browse-bin=Masque+Publishing](https://www.amazon.com/Masque-Publishing/b/ref=bl_dp_s_web_3445232011?ie=UTF8&node=3445232011&field-lbr_brands_browse-bin=Masque+Publishing)

<sup>182</sup> Complaint, paragraph 59; <https://www.masque.com/game/2839/igt-slots-lil-lady>

<sup>183</sup> Complaint, paragraph 144-152.



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1 Since 1999, IGT has had various licensing agreements with Masque.<sup>184</sup> These agreements  
 2 give Masque a license to reproduce and distribute what IGT represented were its trademarked and  
 3 copyrighted graphics and artwork in Masque's retail distribution of computer games.<sup>185</sup> The  
 4 games IGT licensed to Masque include games containing GC2's artwork and graphics, including  
 5 Pharaoh's Fortune, Lucky Lion Fish, Wild Goose Chase, Festival Fantastico, Kingpin Bowling,  
 6 and Maid of Money.<sup>186</sup> In IGT's 2010 licensing agreement with Masque, IGT asserts that it has  
 7 the full legal right to license GC2's artwork and graphics, and goes on to assert that any derivative  
 8 works created by Masque under the licensing contract shall be the exclusive property of IGT.<sup>187</sup>  
 9 IGT additionally requires Masque to hold IGT harmless from any third-party lawsuits.<sup>188</sup> In  
 10 exchange for the license to IGT's games, Masque agreed to pay IGT royalties on the CD-ROMs it  
 11 distributed.<sup>189</sup>

## 12 2. Content on Discs Distributed by Masque

13 CD-ROMs containing versions of multiple slot machine games, including Pharaoh's  
 14 Fortune, Lucky Lion Fish, Wild Goose Chase, Festival Fantastico, Kingpin Bowling, and Maid of  
 15 Money are distributed by Masque Publishing Inc. ("Masque"). CD-ROMs, also referred to as  
 16 "computer discs," were widely used to distribute computer games prior to the transition to  
 17 downloading games over the Internet in the late 2000s.

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<sup>184</sup> 1999 Trademark and Copyright License Agreement; 2010 Restated Trademark and Copyright License

<sup>185</sup> 1999 Trademark and Copyright License Agreement; 2010 Restated Trademark and Copyright License

<sup>186</sup> 2010 Restated Trademark and Copyright License MASQ\_000015 at p. 12

<sup>187</sup> 2010 Restated Trademark and Copyright License MASQ\_000015

<sup>188</sup> 2010 Restated Trademark and Copyright License MASQ\_000015

<sup>189</sup> 2010 Restated Trademark and Copyright License MASQ\_000015

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1 IGT sent Masque a hard drive with artwork and graphics for Lucky Lionfish, Festival  
2 Fantastico and Wild Goose Chase in January 2009.<sup>190</sup> IGT sent Masque a hard drive with artwork  
3 and graphics for Pharaoh's Fortune, Kingpin Bowling, and Maid of Money in January and  
4 February of 2011.<sup>191</sup> I understand that these games contain GC2 Copyrighted Material. I  
5 understand that GC2 has not extended to IGT nor to Masque a license to use this copyrighted  
6 artwork and graphics on interactive games.

7 Each of the discs I have examined is generally consistent in structure. Each disc contains  
8 an executable file or files appropriate for the operating system it is designed for (e.g. Mac OS X,  
9 Windows 8, etc.) This executable file serves as an "installer," which assists the user in copying the  
10 game files and logic from the disc onto their personal computer.

11 For most of the discs, the files that would be copied onto the computer include a number  
12 of Flash files. I discuss Flash files at length in Section V.A.4. The files on these discs are generally  
13 analogous in content and structure to the files found on other IGT game platforms making use of  
14 Flash, such as the DDC Web App and the Caesars Web App, discussed in Sections V.A.4 and  
15 V.B.4.a, respectfully.

16 A small number of the discs did not make use of Flash files. Nonetheless, GC2 Copyrighted  
17 Material is resident on the discs, and is copied over to a player's computer when the disc contents  
18 are installed.

19 Indeed, the boxes and packaging for these discs contains imagery that appears to  
20 incorporate GC2 Copyrighted Material. Section V.C.3.a, below, contains a selection of

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<sup>190</sup> Wisler Deposition pp 42-44; see also Defendant Masque Publishing Inc.'s Answers to Plaintiffs First Interrogatories, Answer number 13.

<sup>191</sup> Defendant Masque Publishing Inc.'s Answers to Plaintiffs First Interrogatories, Answer number 13.

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1 photographs my team and I took of these discs when we acquired them. Section V.C.3.b, also  
2 below, contains a selection of artwork that my team and I extracted from the discs, using similar  
3 methods to those described above.

4 The CD-ROM discs my team and I analyzed were produced by the relevant defendant in  
5 this case during discovery.

### 6 **3. Artwork Assets Utilized and Copied Playing the Games**

7 **Exhibit H** contains the full set of images that we found on the Masque discs, as well as  
8 photos my team took of the packaging for the CD-ROM discs. The Exhibit contains a total of 183  
9 images. Due to the volume of images, only a selected subset of these images are included below  
10 in Subsections a and b.

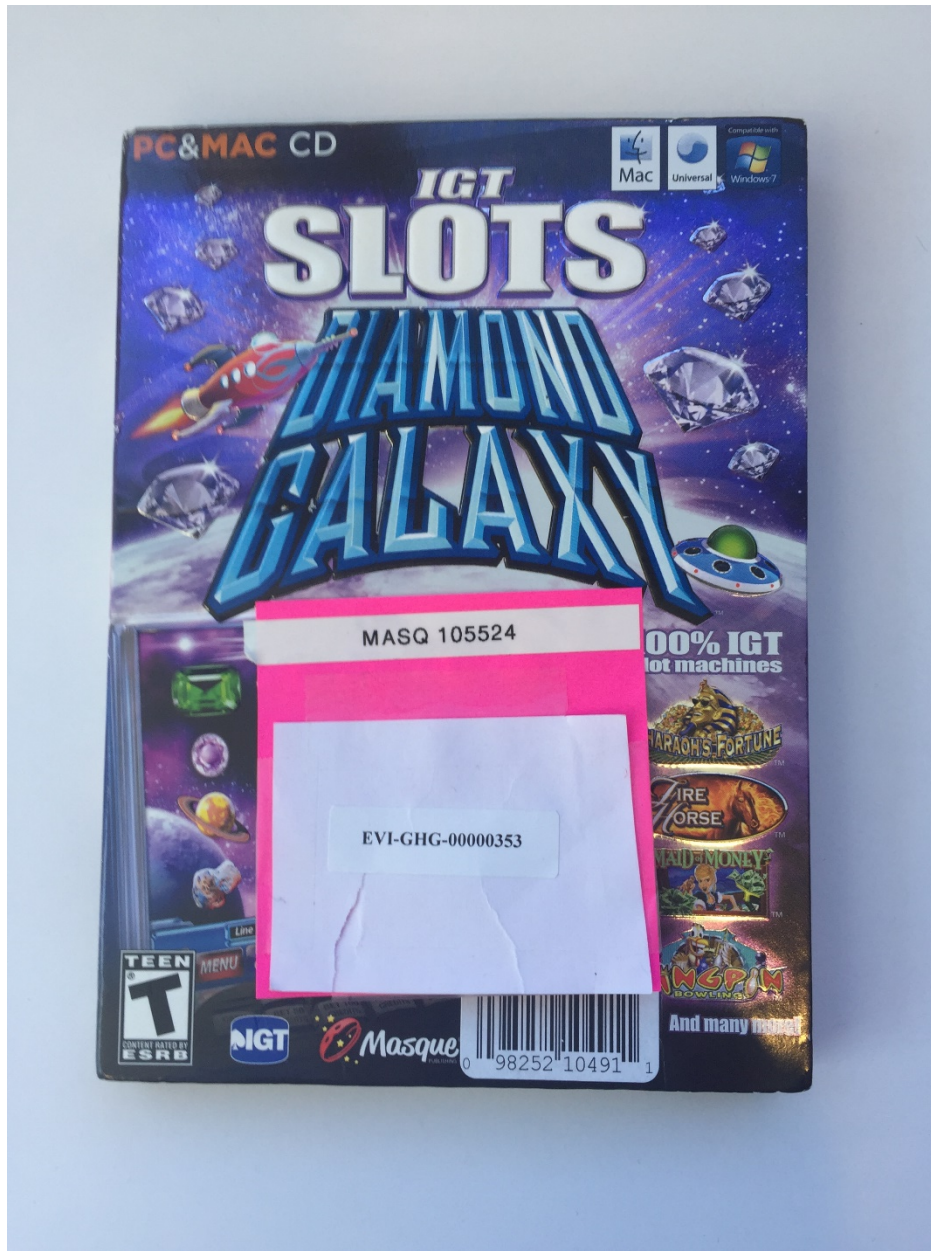
#### 11 **a. Photos of Masque Packaging**

12 The following are photos taken by my team of the packaging of several Masque discs. Note  
13 the inclusion of GC2 Copyrighted Material.



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